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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Implementation of Sections of)
the Cable Television Consumer)
Protection and Competition Act)
of 1992 -- Rate Regulation)
)
Uniform Rate-Setting Methodology)
Notice of Proposed Rulemaking)

CS Docket No. 95-174

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COMMENTS OF CABLEVISION SYSTEMS CORPORATION

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February 12, 1996

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COMMENTS OF CABLEVISION SYSTEMS CORPORATION

Cablevision Systems Corporation ("Cablevision") hereby submits these Comments in response to the above-referenced Notice of Proposed Rulemaking ("Notice").

I. Introduction and Summary

Cablevision commends the Commission for undertaking a reform of its cable service rate regime that, if implemented correctly, will permit multiple cable system operators ("MSOs") like Cablevision to establish and market uniform maximum permitted cable service tier rates on a regional basis that are equitable to both subscribers and MSOs. Regional uniform ratesetting will reduce the subscriber confusion and unnecessary administrative and financial burdens on MSOs caused by the existing requirement that integrated cable systems

serving numerous franchise areas establish separate maximum permitted rates in each franchise area served, a practice that often produces varying rates from franchise area to franchise area for identical programming service packages.

Cablevision urges the Commission to adopt its proposal to permit MSOs to establish maximum permitted rates on a regional basis, and recommends strongly that the FCC not limit the region throughout which uniform rates could be implemented by MSOs to a specific predetermined area. In addition, Cablevision believes that, in light of the uniqueness of each integrated system's rate structure and coverage area, MSOs should not be limited to implementing uniform regional maximum permitted rates by means of only one of the methodologies presented for comment by the Notice. The FCC should not adopt a "one-size-fits-all" approach to either eligibility criteria for what constitutes a "region" for purposes of uniform ratesetting, or the approach MSOs use to calculate and implement uniform regional maximum permitted rates.

Whether the Commission implements a regional ratesetting scheme requiring a single methodology or one affording MSOs the opportunity to select from several regional ratesetting approaches, the approach finally adopted by the FCC should, at a minimum, permit MSOs to implement regional uniform rates by relying on the second option --- the "rate blending" methodology --- proposed in the Notice. This methodology would result in the most equitable regional uniform rates for Cablevision and its subscribers while minimizing administrative burdens and subscriber confusion.

Cablevision urges the Commission to permit MSOs to set equipment rates pursuant to the same regional uniform ratesetting scheme they use to set maximum permitted rates for

programming services, consistent with the provision of the Telecommunications Act of 1996 allowing for the aggregation of equipment costs in the implementation of globalized rates. MSOs should, moreover, be permitted to base uniform rates in part on data from unregulated areas if such uniform rates will be charged in those areas. Cablevision also recommends against the Commission's adoption of a phase-in period for cable programming service tier ("CPST") rates, given the administrative burdens and subscriber confusion that are likely to be caused by such a phase-in period.

Finally, in order to permit the marketing of uniform rates for identical services throughout the service area of an integrated system, MSOs must continue to be able to treat franchise related costs, such as franchise fees and PEG costs, separately, so that such extra charges could be advertised by means of a "tag-line" (e.g., "[rate] plus applicable franchise charges"). Without this ability, it would not be possible for MSOs to advertise uniform regional rates in many integrated systems that encompass separately franchised communities that have imposed unique PEG or franchise fee requirements. The FCC should reaffirm its past interpretations of the 1992 Cable Act that allow this practice.

II. Uniform Regional Ratesetting Will Provide MSOs Like Cablevision With The Much Needed Ability To Equitably And Efficiently Establish And Market Uniform Rates For Identical Products Throughout Integrated Service Areas

Cablevision agrees wholeheartedly with the NPRM's premise that the ability of MSOs to calculate and market uniform rates on a regional basis will help avoid needless confusion on the part of subscribers, as well as the unnecessary administrative and financial burdens on MSOs, caused by having to establish maximum permitted rates on a franchise area by franchise area basis. Cablevision is one of many MSOs that have needlessly spent hundreds of

thousands of dollars having to calculate maximum permitted rates and develop and disseminate marketing materials for each of the franchise areas served by many of its many integrated cable systems.

To illustrate the wasteful inefficiencies of the current community-by-community ratesetting approach, a chart follows that depicts the difference between costs associated with the printing of individual rate cards for five franchise areas served by A-R NY, Cablevision's subsidiary serving Rensselaer, New York, and the costs for printing sufficient copies of the same rate card for the same service areas under a uniform regional rate scenario. Despite the fact that Cablevision has offered an identical product in each of these franchise areas, the requirement that Cablevision establish maximum permitted rates in each franchise area makes it necessary for Cablevision to print different rate cards for each community if Cablevision decides to implement the varying maximum permitted rates in each area. As will be discussed below, however, Cablevision has avoided having to generate separate rate cards for its Rensselaer system by regionalizing the lowest of all of the maximum permitted rates, thereby streamlining its marketing approach at the expense of forfeiting a significant amount of revenue.

| COMPARISON OF RATE CARD PRINTING COSTS FOR RENSSELAER SYSTEM | | | |
|---------------------------------------------------------------------|-----------------|-------------------|---------------------|
| Printing Costs Under Existing Ratesetting Approach | | | |
| <i>Franchise Area Lot</i> | <i>Quantity</i> | <i>Unit Cost</i> | <i>Overall Cost</i> |
| Schodack | 1,700 | \$0.54 | \$920.00 |
| Rensselaer | 12,200 | \$0.221 | \$2,701.80 |
| Postenkill | 600 | \$1.33 | \$800.00 |
| Sand Lake | 1,450 | \$0.613 | \$889.60 |
| Kinderhook | 4,000 | \$0.483 | \$1,935.00 |
| <i>Total</i> | 19,950 | \$0.363 (average) | \$7,246.40 |
| Printing Costs Under Uniform Regional Ratesetting Approach | | | |
| <i>Franchise Area Lot</i> | <i>Quantity</i> | <i>Unit Cost</i> | <i>Overall Cost</i> |
| All Combined | 19,950 | \$0.177 | \$3,546.55 |

As depicted in the chart above, for Cablevision's Rensselaer integrated system alone, the costs of printing rate cards customized for each franchise area is more than double what the cost would be under a uniform regional ratesetting scheme (\$7,246.40 instead of \$3,546.55). As another illustration, below is a chart comparing the costs for printing individual rate cards for the three communities comprising Cablevision's integrated Nashoba system in Massachusetts, and the cost of printing only one set of rate cards.

| COMPARISON OF RATE CARD PRINTING COSTS FOR NASHOBA SYSTEM | | | |
|-------------------------------------------------------------------|-----------------|-------------------|---------------------|
| Printing Costs Under Existing Ratesetting Approach | | | |
| <i>Franchise Area Lot</i> | <i>Quantity</i> | <i>Unit Cost</i> | <i>Overall Cost</i> |
| Middlesex | 21,516 | \$0.186 | \$4,009.45 |
| Belmont | 5,679 | \$0.397 | \$2,254.70 |
| Danvers | 6,979 | \$0.34 | \$2,378.60 |
| Total | 34,174 | \$0.307 (average) | \$8,642.75 |
| Printing Costs Under Uniform Regional Ratesetting Approach | | | |
| <i>Franchise Area Lot</i> | <i>Quantity</i> | <i>Unit Cost</i> | <i>Overall Cost</i> |
| All Combined | 34,174 | \$0.156 | \$5,356.53 |

In Cablevision's Nashoba system, as in its Rensselaer system, the cost of printing individual rate cards for system communities is significantly higher than the cost of printing one system-wide rate card. Moreover, these illustrations depict the cost savings under uniform regional ratesetting for the printing of rate cards only. Similarly significant savings would be realized from the printing of rate change notices, bill stuffers, direct mail pieces, and all other media that lend themselves to bulk discounts or other efficiencies resulting from uniform production and distribution. Under a regional uniform ratesetting approach, therefore, MSOs like Cablevision would be able to save large amounts of revenue that is wasted on unnecessarily duplicative marketing efforts under the existing ratesetting scheme. This currently unrealized revenue under the existing approach is therefore unavailable for the improvement of cable programming and infrastructure development.

Even where MSOs like Cablevision do structure their rates in a manner that creates some of the efficiencies of uniform regional pricing, they do so only by forfeiting large

amounts of revenue to which they are entitled. For example, rather than expending the significant amounts of money required to cope with the inefficiencies of having varying service rates in franchise areas encompassed by an integrated system, like Cablevision's Rensselaer system, Cablevision has resorted in certain systems to charging the lowest maximum permitted Basic Service Tier ("BST") and CPST rates among all of the franchise areas in an integrated system throughout the system.

Cablevision has found that by charging system-wide the lowest maximum permitted rates in an integrated system, it avoids having to micromarket individual programming service rates to each of the encompassed franchise areas. Nevertheless, much of the benefit Cablevision derives from this approach is mitigated by the cost of having to forfeit significant rate revenue due Cablevision in franchise areas where the maximum permitted rate is higher than the system-wide rate, sometimes by a large margin.

The following chart illustrates the actual revenue impact that Cablevision has undergone by opting for a regionalized rate, under Cablevision's ad hoc approach, in its Rensselaer and Wellsville, New York cable systems in an effort to avoid the inefficiencies of

micromarketing rates to individual communities:

| CABLEVISION'S EXISTING APPROACH TO CREATING UNIFORM REGIONAL RATES | | | | | |
|--------------------------------------------------------------------|-----------------------|--------------------------------|-------------|-------------------------------|-------------|
| — SAMPLE SYSTEMS — | | | | | |
| <i>Integrated Sys.</i> | <i>Franchise Area</i> | <i>Maximum Permitted Rates</i> | | <i>Actual Rate Card Rates</i> | |
| | | <i>BST</i> | <i>CPST</i> | <i>BST</i> | <i>CPST</i> |
| Rensselaer | Schodack | \$7.27 | \$13.82 | \$7.05 | \$13.45 |
| | Rensselaer | \$7.08 | \$13.42 | \$7.05 | \$13.45 |
| | Poestenkill | \$7.10 | \$13.50 | \$7.05 | \$13.45 |
| | Sand Lake | \$7.05 | \$13.39 | \$7.05 | \$13.45 |
| | Hapersfield* | \$10.55 | \$7.39 | \$9.60 | \$7.40 |
| | Stamford* | \$10.40 | \$7.28 | \$9.60 | \$7.40 |
| Wellsville | Wellsville | \$8.13 | \$10.00 | \$8.10 | \$10.00 |
| | Penn Yan | \$7.97 | \$9.81 | \$7.95 | \$7.40 |

*no FCC Form 1200 filed.

As an example, in the Rensselaer integrated system, although the highest maximum permitted BST in a community for which an FCC Form 1200 was filed was \$7.27 (i.e., Schodack), the BST rate set by Cablevision in that community, as well as all of the other rate-regulated communities served by that system, was \$7.05 -- the maximum permitted BST rate in Sand Lake. This was done in order for Cablevision to be able to market a uniform rate for the same service package in all of the communities served. In Schodack and in all of the other communities with maximum permitted BST rates significantly above Sand Lake's, however, Cablevision lost a significant amount of revenue it was entitled to for the sake of implementing and marketing a single rate for the same package throughout its integrated system. Similar results are illustrated in the chart for Cablevision's Wellsville, New York system.

Under an FCC-approved regional uniform ratesetting scheme structured in the most

prudent manner possible, Cablevision and other MSOs will no longer face the Hobson's choice of deciding between engaging in inefficient and unnecessarily expensive micromarketing, and avoiding such micromarketing by forfeiting significant revenues as a result of making the lowest permitted BST and CPST rates the actual rates charged throughout an integrated system. The manner in which the Commission structures the uniform ratesetting methodology, however, will determine the extent to which such a scheme will cure these and other inefficiencies resulting from the existing rules.

III. The Commission Should Not Limit The Area Throughout Which An MSO May Implement Uniform Rates And Should Not Limit Uniform Rate Eligibility To Integrated Systems Served By Only One Headend

The Commission should not limit the region throughout which an operator may implement uniform rates as being a county, or Area of Dominant Influence ("ADI"), or any other predetermined geographical area. Instead, the FCC should allow MSOs, at a minimum, to implement regional pricing in an area as large as necessary to accommodate the entirety of an integrated cable system. The Commission's suggestion that regional rates be set on an ADI or county basis,¹ if implemented, would undermine the purposes of a regional uniform ratesetting scheme.

Many of Cablevision's integrated cable systems, for example, span numerous ADIs and counties. Cablevision's New York City integrated system spans two counties. Cablevision's Southern Connecticut integrated system spans two counties as well as two ADIs. If the uniform ratesetting region were limited to the county or ADI level, these and many other of Cablevision's integrated systems would be rendered ineligible for uniform ratesetting relief,

¹See NPRM at ¶ 14.

despite the fact that it is these geographically extensive integrated systems that would benefit most from regional uniform ratesetting.

Similarly, limiting the eligibility for uniform regional ratesetting to integrated systems served by only one headend would frustrate the purpose of the NPRM. Cable systems can be integrated technically by virtue of receiving programming from only one central headend or by being networked by fiber optic cable connected to several system headends, or they can be integrated administratively under common management. The eligibility requirements of whatever scheme the Commission adopts therefore should be only that (1) the integrated cable systems be owned by a common corporate parent, and that (2) these systems offer an identical programming product to the consumer (allowing for certain public/educational/government ("PEG") access channel variations between individual service areas). Any eligibility requirement that restricts the area to which regional uniform ratesetting would be available would not serve the Commission's stated goals.

IV. The Commission Should Not Prescribe A Single Uniform Regional Ratesetting Approach But Should Instead Permit MSOs To Select From A Variety Of Approaches, Or To Implement A Customized Approach Tailored To Meet The System's Unique Characteristics

The Commission should not limit MSOs to any one approach in establishing regional uniform rates. MSOs face distinct technical and geographical conditions in each of their service areas that may make one approach more equitable for some integrated systems than for others. For example, while Operator A would be able to achieve more equitable results under the first approach outlined in the NPRM (establishing a regional BST rate based on the lowest BST rate charged in any one community, then recovering the lost revenue from such BST

decreases by means of an increase to the regional CPST rate),² Operator B instead may be better served by the Commission's second proposed approach (implementing blended BST and CPST rates, derived by averaging the individual rates in the individual system franchise areas).³ Moreover, Operator C may not be helped by either proposed approach as much as a unique approach tailored to the particularities of its system, such as rate differences between communities, size and complexity of the integrated system, and the likelihood and extent of subscriber confusion.

To allow for the most equitable implementation of a regional uniform rate scheme, therefore, the FCC should permit an MSO to select from either of the approaches proposed in the NPRM, or to implement its own unique methodology. Where the MSO opts for a customized regional ratesetting methodology, this unique approach should be approved as long as it, like the "off-the-rack" rate computation approaches, arrives at regional uniform BST and CPST rates derived from individual BST and CPST rates that are judged reasonable, by virtue of being at or below the maximum permitted rates, as determined by the respective local franchising authorities. This condition would ensure that a tailor-made approach would be reasonable and consistent with the requirements of the 1992 Cable Act.

V. The Commission's Proposed "Blended Rates" Approach To Regional Uniform Ratesetting Should be Available To MSOs Under Whatever Final Scheme The Commission Adopts

Whatever uniform regional ratesetting scheme the Commission adopts should afford MSOs the ability to implement regional uniform rates in the manner described by the

²Id. at ¶ 16.

³Id. at ¶ 18.

Commission's second proposed regional uniform ratesetting methodology -- the "blended rates" option. That option would produce the most equitable results for Cablevision. It would enable Cablevision and, we assume, many other MSOs to recover more lost revenue than the Commission's first proposed option.

The blended rates approach is a simple, straightforward method of setting regional uniform rates. It would satisfy the intent of the 1992 Cable Act to protect subscribers from unreasonable rates, since each of the constituent elements of the blended BST and CPST rates are independently approved as reasonable by the respective franchising authorities encompassed by the integrated system's service area. If the constituent rates are reasonable, the blended rates are reasonable.

The fact that under the blended rate approach certain subscribers would experience a slight one-time increase in BST rates does not diminish the desirability of this approach. Some programming service rates for some subscribers will increase slightly upon the inception of any regional uniform ratesetting scheme. While BST rates would not increase under the Commission's first proposed approach (regionalizing the lowest BST rate, and transferring lost BST revenue to the CPST rate), the CPST rate for nearly all subscribers would increase as a function of the shortfall recovery mechanism built into that scheme.

VI. Operators Should Be Allowed To Regionalize Equipment Rates In The Same Manner As Programming Service Rates, Consistent With The Telecommunications Act of 1996's Equipment Rate Averaging Provision

The Commission should permit MSOs to implement regional uniform equipment rates in the same manner in which they will regionalize uniform programming service rates. If, therefore, an MSO applies the blended rates methodology to set regional uniform BST and

CPST rates, that operator should be permitted to average rates for equipment across integrated systems in order to be able to implement and market a single rate for converters, remote controls, and other equipment. The ability to implement, advertise and market regional uniform rates for equipment would yield the same benefits associated with the regionalization of uniform programming service rates. Cable operators will be able to advertise a single rate for equipment, without having to micromarket different equipment rates for individual franchise areas. As in the programming rate context, regional uniform equipment rates would eliminate subscriber confusion, especially among subscribers moving between franchise areas within the same integrated system.

Not allowing the regionalization of equipment rates would be inconsistent with the newly enacted Telecommunications Act of 1996 (“the Act”). Section 301(j) of the Act amends Section 623(a) of the Cable Act of 1992 (47 U.S.C. 543(a)) by allowing cable operators to aggregate equipment costs “on a franchise, system, regional, or company level,” in the implementation of equipment rates.⁴ Any FCC policy or rule preventing or frustrating a cable operator’s ability to aggregate equipment costs in setting regionalized rates would be directly at odds with this provision of the Act.

In addition, not permitting MSOs to implement regional uniform equipment rates would not only make impossible for operators to extend the pro-subscriber benefits of regional uniform ratesetting into the area of equipment rates, but would also undo some of the benefits of regional uniform ratesetting for programming service rates. For example, any cost savings realized from reduced production and printing costs for rate card under a uniform regional

⁴Telecommunications Act of 1996, §301(j).

ratesetting approach would be undermined if operators would be required to set and market equipment rates on a community-by-community basis, as they must do under existing rules. Implementing a ratesetting scheme for programming service rates that is fundamentally different from that of equipment rates would create needless administrative costs.

VII. Operators Should Be Permitted To Base Regional Uniform Rates On Rate Information From Both Regulated And Unregulated Service Areas

Whatever final regional uniform ratesetting scheme is adopted should permit operators to base regional uniform rates on ratesetting data from both regulated and unregulated areas, and to implement and market regional rates in both types of areas. Permitting MSOs to establish and market regional service and equipment rates in this way would lessen subscriber confusion by maintaining uniform rates throughout a service area, regardless of the certification status of franchise areas and whether rates are regulated in all communities included. Such an approach would also be consistent with Section 301(j) of the Telecommunications Act of 1996, which permits cable operators to average equipment rates at system, regional, or company level, regardless of the regulation status of each of their service communities.⁵

Not permitting the inclusion of unregulated areas in the calculation and implementation of regional uniform rates would undermine the objective of the Notice. MSOs and subscribers would still face differing rates for identical products throughout a service area. Moreover, permitting the inclusion of unregulated communities in the calculation and implementation of a regional uniform rate would also benefit subscribers in uncertified or otherwise unregulated

⁵Id.

areas. Uniform pricing in both regulated and unregulated areas would help assure that the cable service and equipment rates charged in unregulated areas are reasonable.

VIII. The Two-Year Phase-in Period Proposed by The Commission For The Implementation of Uniform Regional Rates Would Be Inconsistent With The Telecommunications Act of 1996 and Would Not Justify The Subscriber Confusion And Administrative Burdens It Would Create

The Commission should not implement the two-year phase-in period it proposes in the Notice for CPST rate increases.⁶ Such a long phase-in period would be inconsistent with the timing requirements of the Telecommunications Act of 1996, which require that the Commission issue rules allowing for the regional aggregation of equipment costs within 120 days of enactment of the Act.⁷ In addition, a two-year phase-in period would create significant subscriber confusion during the affected period, and would undermine the objectives of the Notice by making it difficult for MSOs to promote the regional uniform rates. With the CPST rate increasing incrementally, advertising rates in an efficient and effective manner would be impossible.

The administrative burdens associated with a two-year phase-in period would be significant. Not only would MSOs have to calculate the CPST rate increases before each incremental change, they would also have to prepare and mail the requisite subscriber and franchising authority notifications, adjust accounting and customer service software to accommodate the incremental increases, and handle the additional demands placed on customer service representatives by confused subscribers.

⁶Id. at ¶ 21.

⁷Telecommunications Act of 1996, § 301(j)(9)(B).

These administratively and financially burdensome effects to cable MSOs of a two-year phase-in period would dwarf any benefit to subscribers of having a CPST increase spread out over two years. Moreover, such a phase-in period likely would require MSOs to either forfeit CPST revenue during the phase-in period, or delay compensation for decreases in the BST rate until the full CPST increase is realized at the end of the two-year period. This would unfairly deny MSOs revenue otherwise due them.

IX. The FCC Should Reaffirm That Cable Operators Can Separately Bill Franchise Fees And Other Franchise-Related Costs That Vary Within The Uniform Rate Area

A franchising authority's attempt to require that a cable operator not separate the franchise fee from programming service rates in advertisements would make it impossible for that cable operator to advertise a uniform cable service rate throughout a service area, and would thereby create unnecessary confusion. Indeed, such an approach would be wholly inconsistent with the Cable Act provision allowing franchise fees to be separately identified on subscriber bills.⁸ Operators should continue to be free to utilize a “fee plus” approach in order to avoid confusing subscribers by showing a tier rate in a bill that is different from the tier rate in advertising materials. The Commission should reaffirm that the 1992 Cable Act holds that because PEG and other franchise related costs vary from franchise area to franchise area, these costs do not need to be forced into the uniform rate, but can be identified separately. An

⁸See 47 U.S.C. 542(c) (“Each cable operator may identify...as a **separate** line item on each regular bill of each subscriber...(1) The amount of the total bill assessed as a franchise fee and the identity of the franchising authority to which the fee is paid, [and] (2) The amount of the total bill assessed to satisfy any requirements imposed on the cable operator by the franchise agreement to support public, educational, or governmental channels or the use of such channels.” [Emphasis added.]).

MSO, for example, would be able to advertise a regional uniform rate with a "plus franchise costs" tagline throughout the service region to accommodate these varying costs without undoing the uniformity of the regional rate.

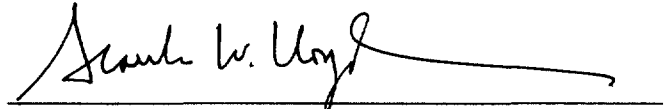
X. Conclusion

For these reasons, the Commission should bless the creation of regional uniform cable rates, and should do so in the manner recommended above to best achieve its objectives.

Respectfully submitted,

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February 12, 1996
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